

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL D. CARVER,

Plaintiff,

v.

KALAMAZOO, CITY OF, et al.,

Defendants.

Case No. 1:22-cv-1024

HON. JANE M. BECKERING

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. On November 16, 2022, the Magistrate Judge issued a Report and Recommendation, recommending that the action be dismissed upon initial screening pursuant to 28 U.S.C. § 1915(e)(2) on grounds that Plaintiff's § 1983 claims fail to state a claim upon which relief may be granted and seek monetary relief against a defendant immune from such relief. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Pl.'s Obj., ECF No. 9; Pl.'s Am. Obj., ECF No. 15). In accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.¹

¹ In light of Plaintiff's amended objection (ECF No. 15), his motion for an extension of time is dismissed as moot (ECF No. 14).

Plaintiff's initial objection contains several pages of excerpted quotations from case law (*see* Pl.'s Obj., ECF No. 9); however, Plaintiff does not identify any specific portion of the Report and Recommendation to which Plaintiff objects. *See* W.D. Mich. LCivR 72.3(b) (noting that an objecting party "shall specifically identify the portions of the proposed findings, recommendations or report to which objections are made and the basis for such objections"). As such, Plaintiff's objection does not demonstrate—let alone identify—any factual or legal error in the Magistrate Judge's analysis or ultimate conclusion that his claims are properly dismissed. Accordingly, Plaintiff's objection is properly denied.

In his amended objection, Plaintiff argues that "[t]he Magistrate Judge erred by applying the qualified immunity to this case after Plaintiff alleged Constitutional Rights of fabricated evidence and after the Appellate Court vacated Plaintiff's conviction" (Pl.'s Am. Obj., ECF No. 15). The Magistrate Judge did not apply qualified immunity to this case; rather, Plaintiff's objection represents his misunderstanding of the Magistrate Judge's application and analysis of prosecutorial immunity (*see* R&R, ECF No. 7 at PageID.15–16). Therefore, as noted above, Plaintiff's objection also fails to demonstrate—let alone identify—any factual or legal error in the Magistrate Judge's analysis or ultimate conclusion that his claims are properly dismissed.²

In short, Plaintiff's objections lack merit, and this Court therefore adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* Fed. R. Civ. P. 58. For the above reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*,

² This Court notes, that, like his initial objection, Plaintiff's amended objection also contains a series of excerpts or quotations from case law but does not identify any specific portions of the Report and Recommendation to which Plaintiff objects. *See* W.D. Mich. LCivR 72.3(b).

114 F.3d 601, 610–11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211–12 (2007).

Accordingly:

IT IS HEREBY ORDERED that the Objections (ECF Nos. 9 & 15) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 7) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the motion for an extension of time (ECF No. 14) is DISMISSED as moot.

IT IS FURTHER ORDERED that the Complaint (ECF No. 1) is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: April 18, 2023

/s/ Jane M. Beckering
JANE M. BECKERING
United States District Judge